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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

2009 DEC 17 A 9:56

AZ CORP COMMISSION
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

DEC 17 2009

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IN THE MATTER OF THE APPLICATION OF
SULPHUR SPRINGS VALLEY ELECTRIC
COOPERATIVE, INC. FOR A HEARING TO
DETERMINE THE FAIR VALUE OF ITS
PROPERTY FOR RATEMAKING PURPOSES, TO
FIX A JUST AND REASONABLE RETURN
THEREON, TO APPROVE RATES DESIGNED TO
DEVELOP SUCH RETURN AND FOR RELATED
APPROVALS.

DOCKET NO. E-01575A-08-0328

PROCEDURAL ORDER

BY THE COMMISSION:

On September 8, 2009, the Arizona Corporation Commission ("Commission") issued Decision No. 71274, which approved a rate increase for Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Cooperative") and made other findings, including *inter alia*, requiring further study of the planned upgrade and construction of a 69 KV line serving the Elgin/Patagonia/Sonoita area.

On September 28, 2008, SSVEC filed an Application for Rehearing and Reconsideration of Decision No. 71274 pursuant to A.R.S. § 40-253.

At an Open Meeting on October 13, 2009, the Commission voted to grant SSVEC's A.R.S. § 40-253 Application for Rehearing and Reconsideration of Commission Decision No. 71274 "in order to provide for further Commission proceedings to consider all facts, including, but not limited to those arising since the entry of Decision No. 71274; to consider matters raised by the Cooperative's Application for Rehearing, including but not limited to those related to the 69 kV line; and to consider any other matter relevant to the Commission's entire reconsideration of Decision No. 71274, with notice and opportunity to be heard for the Cooperative and for any other person or entity who may desire to participate, including an opportunity to intervene, and to that end, the Cooperative shall provide appropriate notice to its customers/members and the public concerning the rehearing proceedings." The Commission directed the Hearing Division to schedule a Procedural Conference

1 to discuss procedural guidelines, including notice and opportunity to intervene, and a schedule
2 consistent with its determination to grant reconsideration.

3 Pursuant to the Commission's directive, a Procedural Conference convened on November 5,
4 2009, with Staff and SSVEC appearing through counsel. SSVEC and Staff disagreed on the scope of
5 the rehearing proceeding as well as the time frame required to prepare for the rehearing.

6 SSVEC argued for a streamlined proceeding that focuses only on the issues raised in its
7 Application for Rehearing. From its perspective, SSVEC envisioned testimony from one or two
8 witnesses about the need for the upgraded 69 kV line and perhaps testimony on why Staff's
9 recommended revenue requirement should not be adopted and in support of its proposal for the
10 administration of its fuel adjustor mechanism. The Company expressed grave concern about the
11 status of the upgrade of the 69 kV line and argued for a process that would have that issue
12 reconsidered as soon as possible. The Company believed it could file testimony and provide notice to
13 potential intervenors in sufficient time to have a hearing commence in January 2010. SSVEC argued
14 that Staff's position (which would not limit the proceeding to issues raised in the Application for
15 Rehearing) penalizes companies who wish to exercise their right to request reconsideration of only a
16 small part of a Commission Decision by exposing them to potentially re-litigating the entire case.

17 Staff argued that when the Commission granted the rehearing request it did not limit the scope
18 of the proceeding to only those issues raised in the application for rehearing. Staff notes that the
19 notice of the matter at open hearing was broadly drafted to consider the application for rehearing and
20 any other matter relevant to the Commission's entire reconsideration of Decision No. 71274. Staff
21 interprets the Commission's vote as the intent to revisit the entire application as originally filed. Staff
22 believed a hearing in the July/August 2010 timeframe would be appropriate.¹

23 The Commission's notice of its reconsideration of Decision No. 71274 provided that the
24 Commission would consider a possible vote on "SSVEC's A.R.S. § 40-253 Application for
25 Rehearing and Reconsideration of Commission Decision No. 71274 in order to provide for further
26

27 ¹ Staff's position on the timing of the hearing appears to presume that issues of reliability of the V-7 feeder line were
28 addressed by the pending request for a moratorium on new hook-ups. At the time this Procedural Order is drafted, the
moratorium issue has not been determined. A hearing on the moratorium request is set to commence January 20, 2010
(Docket No. E-01575A-09-0453).

1 Commission proceedings to consider all facts, including, but not limited to those arising since the
2 entry of Decision No. 71274; to consider matters raised by the Cooperative's Application for
3 Rehearing, including but not limited to those related to the 69 kV line, and to consider any other
4 matter relevant to the Commission's entire reconsideration of Decision No. 71274 . . ." (emphasis
5 added). By its vote, the Commission expressed a desire to reconsider the entire matter.
6 Consequently, on rehearing, interested parties will be afforded the opportunity to raise any issues
7 related to the initial application. Further, as significant time has passed since the initial hearing in
8 this matter, neither Staff nor SSVEC will be precluded from advocating positions that differ from
9 their original positions in this matter. This determination does not mandate re-litigating the entire
10 matter, as all previous testimony remains part of the record. The scope of the proceeding will be
11 determined by the issues raised by the rehearing testimony. However, in order to develop a complete
12 record, to the extent individual Commissioners file letters in the docket requesting testimony or
13 information on a particular topic, the parties should address such topics in their testimony.

14 Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern
15 the preparation and conduct of this proceeding.

16 IT IS THEREFORE ORDERED that a **hearing** in the reconsideration of Decision No. 71274
17 and SSVEC's Application for Rehearing shall commence on **May 18, 2010, at 10:00 a.m.**, or as soon
18 thereafter as is practical, at the Commission's offices, **Room 222, 400 West Congress, Tucson,**
19 **Arizona 85701.**

20 IT IS FURTHER ORDERED that a **pre-hearing conference** shall be held on **May 13, 2010,**
21 **at 10:00 a.m.** at the Commission's Tucson offices, Room 222, for the purpose of scheduling
22 witnesses and the conduct of the hearing. The parties may appear telephonically at the pre-hearing
23 conference.

24 IT IS FURTHER ORDERED that **direct rehearing testimony** and associated exhibits to be
25 presented at hearing on behalf of SSVEC, Staff and Intervenor shall be reduced to writing and filed
26 on or before **March 12, 2010.**
27
28

1 IT IS FURTHER ORDERED that any **responsive rehearing testimony** and associated
 2 exhibits to be presented at hearing shall be reduced to writing and filed on or before **April 16, 2010**.

3 IT IS FURTHER ORDERED that any **reply rehearing testimony** and associated exhibits to
 4 be presented shall be reduced to writing and filed on or before **May 7, 2010**.

5 IT IS FURTHER ORDERED that any **rejoinder rehearing testimony and associated**
 6 **exhibits** will be presented orally at the hearing.

7 IT IS FURTHER ORDERED that **all filings shall be made by 4:00 p.m. on the date the**
 8 **filing is due, unless otherwise indicated**.

9 IT IS FURTHER ORDERED that **any objections to any testimony or exhibits** which have
 10 been prefiled as of May 7, 2010, shall be made before or at the May ^{1st}~~1st~~, 2010 pre-hearing
 11 conference.

12 IT IS FURTHER ORDERED that **all testimony** filed shall include a table of contents which
 13 lists the issues discussed.

14 IT IS FURTHER ORDERED that any substantive corrections, revisions, or supplements to
 15 pre-filed testimony shall be reduced to writing and filed no later than five days before the witness is
 16 scheduled to testify.

17 IT IS FURTHER ORDERED that the parties shall prepare a brief, written summary of the
 18 pre-filed testimony of each of their witnesses and shall file each summary at least two working days
 19 before the witness is scheduled to testify.

20 IT IS FURTHER ORDERED that copies of summaries should be served upon the Presiding
 21 Officer, the Commissioners, and the Commissioners' aides as well as the parties of record.

22 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C. R14-3-
 23 105, except that **all motions to intervene must be filed on or before February 26, 2010**.

24 IT IS FURTHER ORDERED that discovery shall be as permitted by law and the rules and
 25 regulations of the Commission, except that: until March 31, 2010, any objection to discovery requests
 26 shall be made within 7 days² of receipt and responses to discovery requests shall be made within 10
 27

28 ² "Days" means calendar days.

1 days of receipt; thereafter, objections to discovery requests shall be made within 5 days and responses
2 shall be made in 7 days¹; the response time may be extended by mutual agreement of the parties
3 involved if the request requires an extensive compilation effort.

4 IT IS FURTHER ORDERED that for discovery requests, objections, and answers, if a
5 receiving party requests service to be made electronically, and the sending party has the technical
6 capability to provide service electronically, service to that party shall be made electronically.

7 IT IS FURTHER ORDERED that in the alternative to filing a written motion to compel
8 discovery, any party seeking discovery may telephonically contact the Commission's Hearing
9 Division to request a date for a procedural hearing to resolve the discovery dispute; that upon such a
10 request, a procedural hearing will be convened as soon as practicable; and that the party making such
11 a request shall forthwith contact all other parties to advise them of the hearing date and shall at the
12 hearing provide a statement confirming that the other parties were contacted.³

13 IT IS FURTHER ORDERED that any motions which are filed in this matter and which are
14 not ruled upon by the Commission within 20 days of the filing date of the motion shall be deemed
15 denied.

16 IT IS FURTHER ORDERED that any responses to motions shall be filed within five days of
17 the filing date of the motion.

18 IT IS FURTHER ORDERED that any replies shall be filed within five days of the filing date
19 of the response.

20 IT IS FURTHER ORDERED that the Cooperative shall provide public notice of the hearing
21 in this matter, in the following form and style with the heading in no less than 14 point bold type and
22 the body in no less than 10-point regular type:

23 ...

24 ...

25 ...

26 ...

27 _____
28 ³ The parties are encouraged to attempt to settle discovery disputes through informal, good-faith negotiations before seeking Commission resolution of the controversy.

**PUBLIC NOTICE OF HEARING ON THE
REHEARING AND RECONSIDERATION
OF DECISION NO. 71274
AND THE RATE APPLICATION OF
SULPHUR SPRINGS VALLEY ELECTRIC COOPERATIVE, INC.
DOCKET NO. E-01575A-08-0328**

On September 8, 2009, the Arizona Corporation Commission ("Commission") issued Decision No. 71274, which approved a rate increase for Sulphur Springs Valley Electric Cooperative, Inc. ("SSVEC" or "Cooperative") and made other findings, including *inter alia*, requiring further study of the planned upgrade and construction of a 69 KV line serving the Elgin/Patagonia/Sonoita area.

On September 28, 2008, SSVEC filed an Application for Rehearing and Reconsideration of Decision No. 71274 pursuant to A.R.S. § 40-253. At an Open Meeting on October 13, 2009, the Commission voted to grant SSVEC's A.R.S. § 40-253 Application for Rehearing and Reconsideration in order to provide for further Commission proceedings to consider all facts, including, but not limited to those arising since the entry of Decision No. 71274; to consider matters raised by the Cooperative's Application for Rehearing, including but not limited to those related to the 69 kV line; and to consider any other matter relevant to the Commission's entire reconsideration of Decision No. 71274.

Copies of the documents related to this proceeding are available at the Cooperative's offices [insert address and telephone number] and the Commission's offices at 1200 West Washington, Phoenix, Arizona, and 400 West Congress, Suite 218, Tucson, Arizona for public inspection during regular business hours, and on the internet via the Commission website ([/www.azcc.gov/](http://www.azcc.gov/)) using the e-docket function.

Public Hearing Information

The Commission will hold a **hearing** on this matter beginning **May 18, 2010, at 10:00 a.m.**, at the Commission's offices, Room 222, 400 West Congress, Tucson, Arizona.

Public comments will be taken at the beginning of the first day of the hearing. Written public comments may be submitted by mailing a letter referencing Docket No. E-01575A-08-0325 to Arizona Corporation Commission, Consumer Services Section, 1200 West Washington, Phoenix, AZ 85007, or by email. For a form to use and instructions on how to e-mail comments to the Commission, go to <http://www.azcc.gov/divisions/utilities/forms/publiccomment.pdf>. If you require assistance, you may contact the Consumer Services Section at 1-800-222-7000 or (520) 628-6550.

About Intervention

The law provides for an open public hearing at which, under appropriate circumstances, interested parties may intervene. **The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except that all motions to intervene must be filed on or before February 26, 2010.** If you wish to intervene, you must file an original and 13 copies of a written motion to intervene with the Commission no later than February 26, 2010, and mail a copy of the motion to SSVEC or its counsel and to all parties of record. Your motion must contain the following:

- 1 1. Your name, address, and telephone number and the name, address and
2 telephone number of any party upon whom service of documents is to
 be made, if not yourself.
- 3 2. A short statement of your interest in the proceeding (e.g., a customer of
4 the Company, a member of the Cooperative, etc.).
- 5 3. A statement certifying that you have mailed a copy of the motion to
6 intervene to the Cooperative or its counsel and to all parties of record in
 the case.

7 If representation by counsel is required by Rule 31 of the Rules of the Arizona
8 Supreme Court, intervention will be conditioned upon the intervenor obtaining counsel
9 to represent the intervenor. For information about requesting intervention, visit the
10 Commission's website at <http://www.azcc.gov/divisions/utilities/forms/interven.pdf>.
11 The granting of intervention, among other things, entitles a party to present sworn
12 evidence at the hearing and to cross-examine other witnesses. However, failure to
13 intervene will not preclude any interested person or entity from appearing at the
14 hearing and providing public comment on the application or from filing written
15 comments in the record of the case.

12 **ADA/Equal Access Information**

13 The Commission does not discriminate on the basis of disability in admission to its
14 public meetings. Persons with a disability may request a reasonable accommodation
15 such as a sign language interpreter, as well as request this document in an alternative
16 format, by contacting the ADA Coordinator Shaylin Bernal, E-mail
17 Sabernal@azcc.gov, voice phone number 602/542-3931. Requests should be made as
18 early as possible to allow time to arrange the accommodation.

16 IT IS FURTHER ORDERED that SSVEC shall **mail** to each of its customers a copy of the
17 above notice by **January 25, 2010**, and shall cause a copy of such notice to be **published** at least
18 once in a newspaper of general circulation in its service territory, with publication to be completed no
19 later than **January 25, 2010**.

20 IT IS FURTHER ORDERED that SSVEC shall file certification of mailing and publication as
21 soon as practicable after they have been completed.

22 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and
23 publication of same, notwithstanding the failure of an individual customer to read or receive the
24 notice.

25 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113-Unauthorized
26 Communications) applies to this proceeding as the matter is now set for public hearing, and shall
27 remain in effect until the Commission's Decision in this matter is final and non-appealable.

28 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules

1 of the Arizona Supreme Court and A.R.S. §40-243 with respect to the practice of law and admission
2 pro had vice.

3 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
4 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Rule 42 of the
5 Rules of the Arizona Supreme Court). Representation before the Commission includes the obligation
6 to appear at all hearings and procedural conferences, as well as all Open Meetings for which the
7 matter is scheduled for discussion, unless counsel has previously been granted permission to
8 withdraw by the Administrative Law Judge.

9 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
10 pursuant to Rule 6(a) or (3) of the Rules of Civil Procedure.

11 IT IS FURTHER ORDERED that the Presiding Officer may rescind, alter, amend, or waive
12 any portion of this Procedural Order either by subsequent Procedural Order or by ruling at hearing.

13
14 DATED this 15th day of December, 2009.

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JANE L. RODDA
ADMINISTRATIVE LAW JUDGE
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20 ...
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26
27
28

1 Copies of the foregoing mailed
2 this 15th day of December, 2009 to:

3 Bradley S. Carroll
4 Jeffrey W. Crockett
5 Snell & Wilmer LLP
6 One Arizona Center
7 400 East Van Buren
8 Phoenix, AZ 85004-2202
9 Attorneys for SSVEC

10 Susan Scott
11 PO Box 178
12 Sonoita, AZ 85637

13 Janice Alward, Chief Counsel
14 LEGAL DIVISION
15 Arizona Corporation Commission
16 1200 W. Washington Street
17 Phoenix, AZ 85007

18 Steve Olea, Director
19 Utilities Division
20 Arizona Corporation Commission
21 1200 W. Washington Street
22 Phoenix, AZ 85007

23 Arizona Reporting Service, Inc.
24 2200 N. Central Avenue, Suite 502
25 Phoenix, AZ 85004-1481

26 By:

27 
28 Jane Roeda